

Governor's Small Business Reform Task Force

Legislative Report

August 15, 2003

Small Business representatives have expressed interest in the following legislation. Unless indicated otherwise, neither the Governor's Small Business Reform Task Force (SBRTF) nor the Governor's Office of the Advocate for Small Business has adopted a position on the bills in this report. Detailed bill information can be found at www.leginfo.ca.gov.

Access to Capital: Small businesses need access to capital to start-up and grow. Through the Small Business Loan Guarantee Program, the State of California has provided over 200 loan guarantees amounting to \$200 million over the past four years. The Small Business Loan Guarantee Program will move from the Technology, Trade & Commerce Agency and continue at the Business, Transportation & Housing Agency. Recent legislation signed by the Governor is designed to increase the available funds for small business loans.

Bill & Author	Summary
AB 716 (Chan) - Chaptered (178) 8/4/03	Transforms the California Small Business Financial Development Corporation Loan Guarantee Fund and the California Small Business Financial Development Loan Guarantee Account to a trust fund. Allows the expansion fund and the trust fund to receive state, federal or local government money, and any other public or private money to make loans, guarantees, and restricted investments to small business financial development corporations.

Health Care: Small businesses need access to affordable health care. Currently, a legislative conference committee is considering proposals to provide universal health coverage. Proposals under consideration include those that would institute mandated, employer-paid health insurance.

Bill & Author	Summary
AB 1527 (Frommer)	Declares the Legislature's intent to increase the number of Californians who have affordable, high quality health care coverage by implementing specified programs.
AB 1528 (Cohn)	States the intent of the Legislature to enact the Healthy California Act of 2003 to ensure access to health care coverage for all Californians.
SB 2 (Burton/Speier)	Declares the intent of the Legislature to ensure health care coverage for working Californians and their families.

Labor Issues (except Workers' Compensation): Small businesses need worker protections to be necessary and reasonable to avoid inhibiting growth and profitability.

Bill & Author	Summary
AB 76 (Corbett)	Revises existing harassment provisions under the Fair Employment and Housing Act to include sexual harassment by nonemployees if the employer knows or should have known of the incident and fails to take corrective action.
AB 276 (Koretz)	Increases fines for specified violations of the Labor Code.
AB 331 (Kehoe)	Existing law provides for the payment of unemployment compensation benefits during the period that a person is unemployed, provided the person has been unemployed for a period of one week. Existing law provides that this waiting period may be waived during a state of war emergency or state of emergency. This bill would waive the one-week waiting period for any individual who is unemployed due to a lockout related to a labor dispute.
AB 1061 (Firebaugh)	Fosters an increase in small business participation in training funding from the Employment Training Panel (ETP) by requiring ETP to report to the Legislature regarding strategies identified through pilot small business demonstration projects and to include those strategies in its required 3-year plan.
AB 1093 (Lieber)	Mandates employers with 100 or more employees who contract with the state to pay a living wage of at least \$10 per hour if the employee is covered by health insurance and \$12 per hour if not. This would begin in 2004 and would be indexed annually thereafter.
AB 1643 (Ridley-Thomas)	Establishes a Contract Service Provider designation that would clearly establish the separate business status of qualifying micro-businesses and eliminate the statutorily-imposed inconvenience (and tax risk) of contracting with small companies.
SB 569 (Alarcon)	Under existing law, unemployment compensation benefits are based on wages paid in a base period that is calculated according to the month within which the benefit year begins. This bill would, as specified, set forth the base period for any new claim filed on and after January 1, 2004, for an individual who has not been paid sufficient wages to establish a benefit year. This bill would, for any new claim filed on or after January 1, 2004, for which a valid claim or benefit year cannot be established under the currently defined base period establish an alternative definition of base period, as provided. Because this provision would increase the amount of unemployment compensation paid, it would increase the amount payable from the Unemployment Fund, a continuously appropriated special fund, and thereby would make an appropriation.
SB 962 (McClintock)	Would require the Employment Development Department take reasonable steps to verify eligible claims before payments are mailed on any new claims.

Litigation: Under existing law, unfair competition is defined to include an unlawful, unfair, or fraudulent business act or practice, unfair, deceptive, untrue, or misleading advertising, and any false representations to the public. Recent abuses of this important consumer protection have subjected small business to extortionary tactics for minor infractions. Small businesses need consumer protections to be necessary and reasonable to avoid inhibiting growth and profitability.

Bill & Author	Summary
AB 95 (Corbett)	Existing law authorizes an action for relief from unlawful competition to be brought by the Attorney General, a district attorney, a county counsel, or a city attorney, or by any person acting for the interests of itself, its members, or the general public, and provides various remedies, including injunctive relief, restitution, and civil penalties. This bill would require a person bringing a private action under these provisions on behalf of the general public to serve a specified notice on each defendant in the action. The bill would make its provisions contingent upon SB 122 being enacted and becoming effective on or before January 1, 2004.
AB 723 (Knight)	Declares the intent of the Legislature to reform the unfair competition laws.
SB 122 (Escutia)	Existing law provides remedies for unfair competition that may be enforced by a governmental agency, including the district attorney, or by a private party acting for the interests of itself, its members, or the general public. This bill would require, subject to specified exceptions, the court to review and approve a settlement or compromise of an unfair competition action brought or proposed to be brought by a private party on behalf of the general public. The bill would make its provisions contingent upon AB 95 being enacted and becoming effective on or before January 1, 2004.

Procurement: Small businesses need to be able to compete on a level playing field for state contracts to help them generate revenues and create jobs. In May, 2001, the Governor issued Executive Order 37-01, which established a goal for each state department to conduct at least 25% of its business with small businesses. For fiscal year 2001-02, the state is conducting an average of 31% of its business with small businesses.

Bill & Author	Summary
AB 669 (Cohn)	Requires small businesses and disabled veteran business enterprises to perform commercially useful functions in relation to any contract those businesses are awarded under those provisions; imposes civil penalties against any person that knowingly and fraudulently represents that a commercially useful function is being performed by a disabled veteran business enterprise, a small business, or a microbusiness in order to obtain or retain a state contract; and imposes civil penalties on any person that knowingly and fraudulently represents the participation of disabled veteran business enterprises, certified small businesses, or microbusinesses, in order to obtain or retain a state contract.
SB 974 (Alarcon)	This bill would require the state to award at least a 5% preference, and authorize a local agency to award a preference of at least 5%, but not more than 10%, to a California-based socially responsible business that certifies under penalty of perjury that it meets at least 10 of 13 criteria such as paying a living wage to at least 75 percent of its employees, providing health insurance to at least 75 percent of its employees, using environmental best practices that are environmentally sustainable and nonpolluting, among others.

AB 1032 (Jackson)	The State Contract Act authorizes state departments to require prospective bidders of state contracts to complete a questionnaire and financial statement regarding the prospective bidder's financial ability and experience in performing public works contracts. This bill would require any questionnaire used pursuant to these provisions to require each prospective bidder, to state the number of felonies, adverse civil judgments, and administrative violations against the prospective bidder, within the past 5 years, arising from his or her business practices.
AB 1093 (Lieber)	Enacts provisions known as the California Living Wage Act, which would require the state, and any employer that contracts with the state pursuant to provisions governing state procurement to pay a living wage to its employees.
AB 1557 (Hancock)/SB 578 (Alarcon)	Both bills impose new requirements upon contractors including a Sweatfree Code of Conduct which would require contractors and subcontractors to pay "living wages" and prohibit mandatory overtime, at-will employment, or verbal harassment or abuse of workers; among other provisions.

Workers' Compensation: Small businesses need to access to affordable workers' compensation insurance. The Governor has declared his support for workers compensation reform and proposed a reform package in May, 2003. A legislative conference committee is currently reviewing reforms proposals and have agreed to the following priorities: setting a medical fee schedule to control costs; imposing caps on doctors visits to control costs; and fixing a 10 percent penalty on employers whose premiums are late.

Bill & Author	Summary
AB 606 (Liu)	Requires the Small Business Advocate and the Director of the Department of Industrial Relations to meet at least 2 times annually with employees and representatives of small business regarding the workers' compensation system in California and to jointly present a detailed summary of key issues to the Commission on Health and Safety and Workers' Compensation and requires the commission to utilize this information to the fullest extent possible in its activities.
AB 1483 (Richman/Daucher), AB 1579 (Cogdill), SB 223 (Margett), SB 228 (Alarcon), SB 354 (Speier), SB 457 (McPherson/Margett), SB 757, SB 899 (Poochigian)	Existing workers' compensation law provides for the treatment of injured workers by physicians. This bill would state the intent of the Legislature to improve the workers' compensation system by promoting the efficient delivery of high quality appropriate medical care.
SB 176 (Johnson) Chaptered (121) 7/24/03	Existing law authorizes a rating organization, as defined, to inspect risks for classification or rate purposes in connection with workers' compensation insurance, and to furnish to the insurer and, upon request of the employer and after notice to the insurer, to furnish to the employer full information concerning the rates applicable to the employer's insurance. This bill would require a rating organization to provide written notification to a policyholder at the time it provides that notification to the insurer if it imposes a change in the classification assignment of the policyholder, and would provide that a rating organization may satisfy this requirement by furnishing the policyholder with a copy of the notice that it provides to the insurer regarding the change in classification assignment.